

REMARKS

The Applicant expresses appreciation to the Examiner for consideration of the subject patent application. Claims 1-44 are pending in the application. Claims 1-44 are subject to restriction and/or election requirements.

Election/Restriction Requirements:

The Examiner has found that Claims 1-44 are generic to a plurality of disclosed patently distinct species: water soluble polymers, protein domains and bioactive agents. As such, under 35 U.S.C.121, the Examiner has required the inventor to select “a single disclosed species cited in the claim, even though this requirement is traversed”.

The inventor hereby provisionally elects, with traverse, copolymers of HPMA and DAMA as the water soluble polymer, proteins domain having coil-coiled structure as the protein domain and insulin as the bioactive agent. The claims read on the elected species are: 1-3, 5-12, 14-19, 21-23, 25-32, 34-39 and 41-44. Upon allowance of a generic claim, the Applicant is entitled to consideration of claims to additional species.

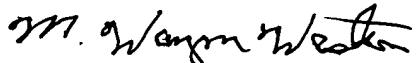
However, although an election has been made, the Applicant respectfully traverses the restriction requirement for the following reasons. It is believed that with respect to the election of species requirements, no undue burden would be placed upon the examiner to examine all listed species concurrently under M.P.E.P. § 805.05(e) because there is a commonality of dominant elements in the claims. The invention is directed to a composition for making a stimuli responsive hydrogel comprising water soluble polymers crosslinked by protein domains. The hydrogel is useful for delivery of a bioactive agent. The species disclosed for the polymer, protein domain and bioactive agent do have a common feature and are similar enough that it would not create an undue burden for the examiner to examine all species concurrently. For example, all polymer species are water soluble and can be crosslinked by a protein domain. All the protein domain species need to have structural features which enable the domain to be used as a crosslinking agent. Bioactive agents in the present invention can be any chemical material or compound having the desired biological activity or pharmaceutical effect. Therefore, despite the election, the election of species requirement is respectfully traversed and the applicants

respectfully request reconsideration of this requirement under 37 C.F.R. § 1.143. In addition, requiring that the inventor select one species would be unduly limiting considering that a fine distinction among species does not affect the focus of the invention. Furthermore, to those skilled in the art, it would be apparent that all species listed in the claims are not patentably distinct from one another in the context of the present invention. Therefore, the applicant respectfully requests reconsideration in this matter and withdrawal of this requirement.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment to Deposit Account No. 20-0100.

DATED this 28th day of January, 2004.

Respectfully submitted,



M. Wayne Western
Registration No. 22,788
Weili Cheng, Ph.D
Registration No. 44,609

THORPE, NORTH & WESTERN, L.L.P.
P.O. Box 1219
Sandy, Utah 84091-1219
Telephone: (801) 566-6633

MWW/WC:ll


H:\FILES\T6000\T6425\T6425.o.r.1.28.04.doc